

2nd March 2018

Case Laws

MAHARASHTRA SMALL SCALE INDS.DEV.CORPN.,LTD VS CST.,MUMBAI

The assessee was rendering services of C&F Agents and failed to pay service tax under RCM due to the confusion regarding the person responsible to discharge tax liability. Notice was issued and imposed interest & penalty. It was held that, service tax liability on service of C&F agents placed in the hands of recipient of service by retrospective amendment reason given by the assessee is justifiable thus no penalty is warranted.

SHARP BUSINESS SYSTEMS LTD. VS COMMISSIONER OF SERVICE TAX,DELHI 2017 (4) G.S.T.L

The appellant claimed the benefit of Notification No.12/2003-ST(tax only on services not on value of goods and materials) the department disagreed with the documentation submitted which is mainly in form of certificate of CA. held that The appellant has provided that for their service contract the value of goods is 50% and the CA certificate was based on their returns and books of accounts the appellant correctly discharged the documents.

FORCE MOTORS LTD VS CCE (2017) 81 TAXMANN 10

The assessee was engaged in manufacturing of motor vehicles chassis. It supplied the chassis to the body builder at free of cost who after building the body cleared the complete vehicle to the assessee for sale by the assessee. The department alleged that there was no sale of chassis under applied rule 8 of valuation rules. It was held that rule 8 will not apply where some parts of goods was cleared to independent buyers.

ABHIJIT MAJUMDER VS ITO (2017) 81TAXMANN75

The assessee was engaged in trading of newspapers, magazines, etc. they paid certain amount to hawkers as commission. The department alleged that the assessee failed to deduct tax at source from the said amount. The tribunal held that reduced price charged from hawkers to supply newspaper etc., could not be treated as commission, TDS deduction is not required.

CARI BECHEM LUBRICANTS INDIA (p) LTD VS CCE

The assessee was engaged in the manufacture of excisable goods. They availed the credit of service tax paid on import of services on manufactured and traded goods under RCM. The department alleged that the assessee is not eligible to take credit on marketing and consultancy services. The tribunal held that credit of service tax paid on marketing and consultancy services was not available for traded goods.

DSM SUGAR ASMOLI VS CCE(2017) 81 TAXMANN 12

The assessee was a manufacturer of sugar and molasses. They availed the credit on various items like plates, shape & section, MS Angles used as inputs for repair and maintenance of capital goods. The department denied the credit availed on such items. The department held that goods used in repair and maintenance of capital goods engaged in manufacturing were ineligible for input credit.

RELIANCE RETAIL LTD VS STATE OF PUNJAB (2017) 81 TAXMAN

The assessee was engaged in sale and manufacturing of jewellery. He was entitled to ITC for the tax paid on purchase of gold used in manufacture of jewellery. The department alleged that the goods were not received back by the assessee from the job worker within the prescribed time and they rejected the claim. The HC held that time limit to claim ITC on goods sent to job worker under Punjab VAT is not ultra vires.

VETTATHIL AGENCIES VS CTO(2017) 81 TAXMANN 56

The assessee was engaged in the trading of cement. The supplier allowed discount to the assessee by way of credit note at the time of purchase of cement by the assessee. The department levied tax on the discount received. It was held that post sale discount received through credit note is part of taxable turnover.

DAA | MUMBAI:

BONANZA, Sahar Plaza, Next to
Kohinoor Hotel, J.B. Nagar,
Andheri (E),
Mumbai 400 059

DAA | CHENNAI:

#13, 3rd Floor, Bhagawathi Palace,
J Block, 3rd Avenue,
Anna Nagar (East), Chennai 600
102

DAA | BANGALORE:

No.221, 16th Main Road, 19th
Cross Street, HSR Layout,
Bangalore 560 102
Tel +91 80 5610 2618

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